



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

December 8, 2004

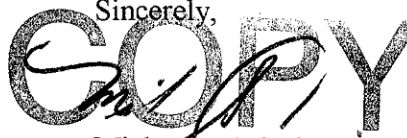
Circuit Connect, Inc.
Attn: Mark Sites
4 State Street
Nashua, NH 03063

Re: Administrative Order by Consent Docket No. AO WMD 04-014

Dear Mr. Sites:

Enclosed for your records is a copy of the Administrative Order by Consent in the above-captioned matter which was executed by Anthony P. Giunta, P.G., Waste Management Division Director, and accepted by Commissioner Michael P. Nolin on December 7, 2004. On behalf of the Department of Environmental Services, thank you for your cooperation in resolving these matters. If you have any questions, please contact me at (603) 271-6072, or by e-mail at msclafani@des.state.nh.us.

Sincerely,


Michael Sclafani
Legal Assistant

cc: Anthony P. Giunta, P.G., Director, Waste Management Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
Public Information Officer, DES PIP
Jennifer J. Patterson, NH DOJ
City Clerk, Nashua, NH
Will Walen, Director of Quality, Circuit Connect, Inc.
Mark Clutz, CEO, Circuit Connect, Inc.



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

Circuit Connect, Inc.
4 State Street
Nashua, NH 03063

Re: EPA ID No. NHD986466688

**ADMINISTRATIVE ORDER
BY CONSENT
No. WMD 04-14**

A. INTRODUCTION

This Administrative Order by Consent is issued by the Department of Environmental Services, Waste Management Division to and with the consent of, Circuit Connect, Inc., pursuant to RSA 147-A:14. This Order is effective upon signature of all parties.

B. PARTIES

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal offices at 29 Hazen Drive, Concord, NH 03301.
2. Circuit Connect, Inc. ("CCI") is a New Hampshire corporation that registered with the New Hampshire Secretary of State's Office on December 1, 2000. CCI has a mailing address of, and operates a facility located at, 4 State Street, Nashua, NH 03063.

C. STATEMENT OF FACTS AND LAW

1. RSA 147-A authorizes DES to regulate the management, including storage, treatment, containerization, transportation, and disposal of hazardous wastes. Pursuant to RSA 147-A:3, the Commissioner of DES has adopted New Hampshire Administrative Rules Env-Wm 100-1100 ("Hazardous Waste Rules") to implement this program.
2. CCI is a hazardous waste generator that initially notified the United States Environmental Protection Agency ("EPA") of its activities in Nashua, NH, through DES on July 2, 1992. EPA Identification Number NHD986466688 was assigned to CCI's site located at 4 State Street, Nashua, NH (the "Facility").
3. On May 22, 2003, DES personnel conducted an inspection (the "Inspection") of the Facility. The purpose of the Inspection was to determine CCI's compliance status relative to RSA 147-A and the Hazardous Waste Rules.

4. At the time of the Inspection, DES personnel documented the Wastewater Treatment Room hazardous waste storage area.
5. During the Inspection, DES personnel observed 38 containers of hazardous waste stored in the Wastewater Treatment Room.
6. CCI operates a wastewater treatment unit ("WWTU") which is a hazardous waste treatment facility within the definition of RSA 147-A:2, IV.
7. RSA 147-A:4, I requires any person who wishes to operate a hazardous waste treatment facility to first obtain a Limited Permit for a WWTU provided the operator meets the conditions specified in Env-Wm 353.04(b) through (o), including the submission of a Limited Permit application form.
8. CCI was granted Limited Permit DES-HW-LP-94-018 ("the Limited Permit") on June 23, 1994.
9. Env-Wm 353.04(r)(1) requires facilities to apply for a permit renewal to DES within 90 days prior to the limited permit expiration date.
10. CCI's Limited Permit expired on June 23, 1999.
11. At the time of the Inspection, DES had no record of receiving an application for a permit renewal or a limited permit application form from CCI for the WWTU.
12. Env-Wm 502.01 requires that all generators of waste determine if their waste is a hazardous waste.
13. At the time of the Inspection, no formal hazardous waste determination had been performed on the waste lamps generated by CCI. DES personnel also confirmed that CCI has disposed of waste lamps in the on-site dumpster.
14. Env-Wm 507.01(a)(3) requires hazardous waste to be placed in containers or tanks that are closed at all times except to add or remove waste.
15. During the Inspection, DES personnel observed five (5) 55-gallon containers of hazardous waste that were not closed. See the attached Hazardous Waste Container Inventory ("Inventory").

One (1) container of potassium was later determined to be in process and one (1) container of spent neutralizer was later determined to not be a hazardous waste.
16. Env-Wm 507.02(a) requires that hazardous wastes are shipped off-site within 90 days of the date when accumulation of the waste first began, except as provided in Env-Wm 508.02, Env-Wm 508.03, and Env-Wm 509.03.

17. During the Inspection, DES personnel observed seven (7) 55-gallon containers of hazardous waste that were stored for greater than 90 days. (See the attached Inventory).

One (1) drum of nickel bath was later determined to not be a hazardous waste.

18. Env-Wm 507.03(a)(1)a. requires containers and tanks to be marked with the beginning accumulation date when they are first used to store hazardous waste.

19. During the Inspection, DES personnel observed eight (8) 55-gallon containers of hazardous waste that were not marked with the beginning accumulation date. (See the attached Inventory).

One (1) drum of nickel bath was later determined to not be a hazardous waste.

20. Env-Wm 507.03(a)(1)b., c., and d. require containers and tanks used for the storage of hazardous waste to be clearly marked with the words "hazardous waste", words that identify the contents of the container, and the EPA or state waste number.

21. During the Inspection, DES personnel observed six (6) containers of hazardous waste that were not marked with the words "hazardous waste", words that identify the contents of the container, and the EPA or state waste number. DES personnel also observed one (1) additional container of hazardous waste that was not marked with words that identify the contents of the container, and the EPA or state waste number and thirty (30) additional containers that were not marked with the EPA or state waste number. (See the attached Inventory).

Eight (8) 55-gallon containers and one (1) five-gallon container were later determined to not contain a hazardous waste.

22. Env-Wm 509.02(a)(1), which references 40 CFR Part 265.15, General Inspection Requirements, requires full quantity generators to conduct inspections of the Facility, including the hazardous waste storage area, and to document the inspections.

23. At the time of the Inspection, CCI was not conducting and documenting inspections of the hazardous waste storage area for a sixteen (16) week period (*i.e.*, 2/3/03 through 5/22/03).

24. Env-Wm 509.02(a)(2), which references 40 CFR Part 265.16, Personnel Training, requires full quantity generators to maintain a personnel training program for its employees responsible for handling hazardous waste.

25. At the time of the Inspection, CCI was not maintaining a personnel training program for its employees responsible for handling hazardous waste.

26. At the time of the Inspection, CCI was not providing hazardous waste training for two (2) employees responsible for handling hazardous waste. The two (2) employees are identified as: Ken Fudge (Primary Emergency Coordinator) and Willis Walen (Secondary Emergency Coordinator).

27. During the Inspection, CCI provided documentation indicating that Ken Fudge and Willis Walen received hazardous waste training on July 25, 1997.
28. Env-Wm 509.02(a)(4), which references 40 CFR 265.35, Subpart C, Preparedness and Prevention, requires full quantity generators to maintain aisle space at each hazardous waste storage area. Required aisle space is further defined in Env-Wm 509.02(e) to mean not less than 2 feet of aisle space to allow for inspection of at least one side of each container.
29. During the Inspection, DES personnel observed five (5) containers of hazardous waste that were not provided at least 2 feet of aisle space. (See the attached Inventory).
30. Env-Wm 509.02(a)(5), which references 40 CFR Part 265, Subpart D, Contingency Plan and Emergency Procedures, requires full quantity generators to maintain a contingency plan at the Facility and to immediately amend the plan whenever the list of emergency coordinators changes.
31. At the time of the Inspection, CCI had not amended the contingency plan to reflect a change in emergency coordinators.
32. Env-Wm 509.02(b)(3) requires full quantity generators to post at the nearest telephone to each hazardous waste storage area, the emergency coordinators, home and office numbers, and the location of fire extinguishers and spill control material.
33. At the time of the Inspection, CCI's emergency posting, did not indicate the location of fire extinguishers and spill control material.
34. Env-Wm 807.06(b)(7) requires generators to conduct an initial used oil determination on their used oil by analyzing it for all of the parameters specified in Env-Wm 807.02 and Env-Wm 807.03 (exclusive of PCBs if no source of PCBs is present).
35. At the time of the Inspection, CCI had generated used "compressor" oil and shipped it off-site to be recycled. CCI had not performed a used oil determination on the used "compressor" oil that was sent for recycle.

D. DETERMINATION OF VIOLATIONS

1. CCI has violated RSA 147-A:4/Env-Wm 353.04 by failing to submit a request for the renewal of Limited Permit DES-HW-LP-94-018 within 90 days prior to the limited permit expiration date.
2. CCI has violated Env-Wm 502.01 by failing to adequately determine if its waste is a hazardous waste.
3. CCI has violated Env-Wm 507.01(a)(3) by failing to close containers used to store hazardous waste.
4. CCI has violated Env-Wm 507.02(a) by storing hazardous waste containers for greater than 90-days.

5. CCI has violated Env-Wm 507.03(a)(1)a. by failing to mark each container storing hazardous waste with the beginning accumulation date at the time they are first used to store hazardous waste.
6. CCI has violated Env-Wm 507.03(a)(1)b., c., and d. by failing to mark each container storing hazardous waste with the words "hazardous waste", words to identify the contents of the container, and the EPA or state waste number at the time they are first used to store hazardous waste.
7. CCI has violated Env-Wm 509.02(a)(1) by failing to conduct inspections of the Facility, including the hazardous waste storage area.
8. CCI has violated Env-Wm 509.02(a)(2) by failing to maintain a personnel training program and to adequately train all personnel handling hazardous waste.
9. CCI has violated Env-Wm 509.02(a)(4) by failing to provide adequate aisle space for hazardous waste containers.
10. CCI has violated Env-Wm 509.02(a)(5) by failing to amend the contingency plan to reflect a change in emergency coordinators.
11. CCI has violated Env-Wm 509.02(b)(3) by failing to post complete emergency information at the telephone nearest to the hazardous waste storage area.
12. CCI has violated Env-Wm 807.06(b)(7) by failing to perform an initial used oil determination.

E. ORDER

Based on the above findings, DES hereby orders and CCI agrees, and has undertaken and completed the following actions:

1. CCI must obtain a Limited Permit for its WWTU, as specified in RSA 147-A:4, by complying with the requirements of Env-Wm 353.04(b) through (o), including the submission of a New Hampshire Limited Permit application form to DES.
2. CCI shall manage waste lamps as "universal waste" in accordance with Env-Wm 1100. The DES Environmental Fact Sheet #WMD-HW-7 "Universal Waste Lamps: Management Requirements for Handlers and Transporters," and a DES "Fluorescent Lamp and Ballast Recycling Facility" list were provided to CCI personnel at the time of the Inspection.
3. Ensure that hazardous waste containers are properly sealed, and bungs or lids are closed except when wastes are actually being added to or removed from the container as specified in Env-Wm 507.01(a)(3).
4. Ensure that hazardous waste is not stored on-site for greater than 90 days as specified in Env-Wm 507.02(a).

5. Ensure that all hazardous waste containers and tanks are clearly marked with the beginning date of accumulation, as specified in Env-Wm 507.03(a)(1)a.
6. Ensure that all hazardous waste containers and tanks are clearly marked with the words "hazardous waste", words that identify the contents of the container, and the EPA or state waste number, as specified in Env-Wm 507.03(a)(1)b., c., and d.
7. Maintain a general inspection program, as specified in Env-Wm 509.02(a)(1), which references 40 CFR Part 265.15, General Inspection Requirements. This program must provide for, at a minimum, weekly inspections of areas where hazardous wastes are stored.
8. Develop and maintain a personnel training program as specified in Env-Wm 509.02(a)(2), which references 40 CFR 265.16, Personnel Training, including:
 - a. Ensure that all personnel handling hazardous waste receive annual updates of their training [40 CFR 265.16(c)]; and
 - b. Ensure that the following documents and records are maintained at the Facility:
 - i. Job title for each position at the Facility related to hazardous waste management, and the name of the employee filling each job;
 - ii. A written job description, including requisite skills, education and duties, for positions with hazardous waste management duties;
 - iii. A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position with hazardous waste management duties; and,
 - iv. Documentation that training has been completed.
9. Ensure that hazardous waste containers are provided at least 2 feet of aisle space to allow for the inspection of one side of the container as specified in Env-Wm 509.02(a)(4).
10. Update the contingency plan to reflect the names of and contact information for the current emergency coordinators. Submit copies of the updated contingency plan to all local police departments, fire departments, hospitals, and state and local emergency response teams that may be called upon to provide emergency services, as specified in Env-Wm 509.02(a)(5), which references 40 CFR 265 Subpart D, Contingency Plan and Emergency Procedures.
11. Ensure that the location of emergency equipment, including fire extinguishers and spill control material, are posted at the telephone nearest to each hazardous waste storage area, as specified in Env-Wm 509.02(b).
12. Perform a used oil determination as specified in Env-Wm 807.06(b)(7) for the used "compressor" oil and submit the results along with any supporting data to DES.

F. ADMINISTRATIVE FINES

Allegations:

1. Specifically, CCI failed to submit a request for the renewal of Permit No. DES-HW-LP-94-018 within 90 days prior to the limited permit expiration date (*i.e.*, CCI's Limited Permit expired on June 23, 1999), as required by RSA 147-A:4, I/Env-Wm 353.04 ("Violation 1"). Pursuant to Env-C 610, which references RSA 147A:4/Env-Wm 353.04, DES proposes a fine of \$900.
2. Specifically, CCI failed to conduct an adequate hazardous waste determination on waste lamps as required by Env-Wm 502.01 ("Violation 2"). Env-C 612.05(a) authorizes a fine of \$1,500 per determination.
3. Specifically, CCI failed to close three (3) 55-gallon containers of hazardous waste, as required by Env-Wm 507.01(a)(3) ("Violation 3"). Env-C 612.06(c)(1) authorizes a fine of \$400 for each container that is 55-gallons or greater, for a potential fine of \$1,200.
4. Specifically, CCI failed to ship six (6) 55-gallon containers of hazardous waste off-site within 90 days of the date when accumulation first began, except as provided in Env-Wm 508.02, Env-Wm 508.03, and Env-Wm 509.03, as required by Env-Wm 507.02(a) ("Violation 4"). Env-C 612.06(j), which references Env-Wm 507.02(a)(3) modified in August 2000 to Env-Wm 507.02(a) authorizes a fine of \$500 for each container not shipped within 90 days, for a potential fine of \$3,000.
5. Specifically, CCI failed to mark seven (7) 55-gallon containers of hazardous waste with the beginning accumulation date, as required by Env-Wm 507.03(a)(1)a. ("Violation 5"). Env-C 612.06(k) authorizes a fine of \$250 for each container that is 55-gallons or greater for a potential fine of \$1,750.
6. Specifically, CCI failed to properly mark twenty-eight (28) 55-gallon containers of hazardous waste with the words "Hazardous Waste", the contents of the container, and EPA or state waste number, as required by Env-Wm 507.03(a)(1)b., c., and d. ("Violation 6"). Env-C 612.06(l) authorizes a fine of \$600 for each container that is 55-gallons or greater for a potential fine of \$16,800. DES believes due to the fact that twenty-one (21) of the containers for on-site treatment were missing only the waste code that the penalty for these containers should be reduced to \$100/container for a revised potential fine of \$6,300 (*i.e.*, seven (7) containers at \$600 for each container and twenty-one (21) containers at \$100 for each container).
7. Specifically, CCI failed to conduct and document inspections of the hazardous waste storage area for a sixteen (16) week period of time, as required by Env-Wm 509.02(a)(1) ("Violation 7"). Env-C 612.07(a) authorizes a fine of \$1,000 per inspection per area, for a potential fine of \$16,000.
8. Specifically, CCI failed to perform eight (8) years of annual hazardous waste training for two (2) personnel (primary and secondary emergency coordinators), as required by Env-Wm

509.02(a)(2) ("Violation 8"). Env-C 612.07(b) authorizes a fine of \$1,000 per individual not trained for annual updates for a potential fine of \$8,000.

9. Specifically, CCI failed to maintain adequate aisle space for five (5) containers of hazardous waste, as required by Env-Wm 509.02(a)(4) ("Violation 9"). Env-C 612.07(d) authorizes a fine of \$1,250 per requirement not met per storage area.

10. Specifically, CCI failed to submit copies of its contingency plan to all local departments, fire departments, hospitals, and State and local response teams, as required by Env-Wm 509.02(a)(5) ("Violation 10"). Env-C 612.07(e) authorizes a fine of \$2,000.

11. Specifically, CCI failed to post complete emergency posting at the nearest telephone to the hazardous waste storage area, as required by Env-Wm 509.02(b) ("Violation 11"). Env-C 612.07(h) authorizes a fine of \$1,000 per area.

12. Specifically, CCI failed to conduct a used oil determination on their used "compressor" oil, as required by Env-Wm 807.06(b)(7) ("Violation 12"). Env-C 612.10(c) which references Env-Wm 807.06(b)(4), modified in August 2000 to Env-Wm 807.06(b)(7), authorizes a fine of \$750 per determination not made.

Payment:

13. DES agrees to waive fines associated with Violations 2 and 10 through 12 because they are not Class I violations.

14. DES believes the following fines are appropriate for Violations 1 and 3 through 9 which are Class I violations, upon execution of this Administrative Order by Consent by CCI.

- a. Violation 1 is a Class I violation. DES has determined due to CCI's high level of cooperation in providing information and its effort to correct that violation, that a 10% reduction should be applied. DES is thus seeking a fine of \$810.
- b. Violation 3 is a Class I violation. DES has determined due to CCI's high level of cooperation in providing information and its effort to correct that violation, that a 10% reduction should be applied. DES is thus seeking a fine of \$1,080.
- c. Violation 4 is a Class I violation. DES has determined due to CCI's high level of cooperation in providing information and its effort to correct that violation, that a 20% reduction should be applied. DES is thus seeking a fine of \$2,400.
- d. Violation 5 is a Class I violation. DES has determined due to CCI's high level of cooperation in providing information and its effort to correct that violation, that a 10% reduction should be applied. DES is thus seeking a fine of \$1,575.
- e. Violation 6 is a Class I violation. DES has determined due to CCI's high level of cooperation in providing information and its effort to correct that violation, that a 10%

reduction should be applied. DES is thus seeking a fine of \$5,670.

- f. Violation 7 is a Class I violation. DES has determined due to CCI's high level of cooperation in providing information, its effort to correct that violation, and other circumstances, that a 30% reduction should be applied (*i.e.*, (10%) cooperation and (20%) other circumstances). DES is thus seeking a fine of \$11,200.
- g. Violation 8 is a Class I violation. DES has determined due to CCI's high level of cooperation in providing information and its effort to correct that violation, that a 10% reduction should be applied. DES is thus seeking a fine of \$7,200.
- h. Violation 9 is a Class I violation. DES has determined due to CCI's high level of cooperation in providing information and its effort to correct that violation, that a 20% reduction should be applied. DES is thus seeking a fine of \$1,000.

The total administrative fine for the Class I violations described above is \$30,935. However, DES has determined that based on CCI's good faith effort to comply with the hazardous waste rules, that an additional penalty reduction of \$6,187 (20%) should be applied for a final fine of \$24,748 of which \$13,459 shall be a cash fine paid in accordance with paragraph 15 and \$11,289 shall be credited toward the Supplemental Environmental Project ("SEP") in accordance with Paragraph 16.

- 15. CCI agrees to pay \$13,459 within the next six (6) months as follows:
 - a. \$2,259 of the fine shall be due and payable upon execution of this Agreement by CCI.
 - b. \$11,200 shall be paid in five (5) equal payment of \$2,240 due on the first of each month beginning January 2005 and ending with the last payment due on May 2005.
- 16. CCI shall expend at least \$11,289 to purchase emergency response equipment for a local Fire Department (or other Agency approved by DES) based up the Fire Department's request for specific equipment and approval of such equipment by the Division. CCI will notify the Fire Department of the donation within five (5) days of final execution of this Agreement and request from the Fire Department a list of equipment needed to adequately respond to hazardous waste related and other emergencies. Upon receipt of such list, CCI shall notify the Division (attn: Linda Birmingham) that it intends to place orders for the equipment requested by the Fire Department. If no objection is received from the Division within ten (10) days of receipt of the list, CCI shall place a purchase order for the equipment and arrange delivery of the equipment directly to the Fire Department. If the final cost of the equipment does not reach the \$11,289 commitment, then any difference will be paid to the State of New Hampshire Hazardous Waste Cleanup Fund by the same method outlined under paragraph 15 within ten (10) days of the six (6) month anniversary of the Agreement.
- 17. Payment under Section F. Paragraph 15 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and shall be mailed to:

DES Legal Unit

Attn: Michael Sclafani, Legal Assistant
PO Box 95
Concord, NH 03302-0095

18. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

19. The effective date of this Administrative Order by Consent will be the date on which it is signed by an authorized representative of CCI, the Director of the Waste Management Division, and the Commissioner of DES.

20. No failure by DES to enforce any provision of this Administrative Order by Consent after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Administrative Order by Consent on any further breach or default.

G. CONSENT AND WAIVER OF APPEAL

1. By execution of this Administrative Order by Consent, CCI agrees that this Order shall apply to and be binding upon CCI, its officers, directors, successors and assigns their heirs, successors, and assigns, and agrees that this Order may be entered and enforced by a court of competent jurisdiction.

2. By execution of this Administrative Order by Consent, CCI waives any right to appeal this Administrative Order by Consent provided by statute, rule, or common law, including without limitation the right to appeal to the Waste Management Council, and waives any right to object to the entry and enforcement of this Order by a court of competent jurisdiction.

3. By execution of this Administrative Order by Consent, CCI waives any right to a hearing on or appeal of the administrative fine specified in Section F provided by statute, rule, or common law, and waives any right to object to the fine in any collection action initiated by DES due to non-payment of the fine by CCI.

H. OTHER PROVISIONS

DES will continue to monitor the compliance status of CCI to determine whether the Facility has come into, and is maintaining, full compliance with the applicable rules. Future violations will result in additional enforcement action being taken. CCI is required to maintain compliance with all on-going requirements, including those identified in Section E of this Administrative Order by Consent.

CCI may assert a confidentiality claim covering part or all of the information requested which constitutes a trade secret, in accordance with RSA 147-A:7, II. If no such claim accompanies the information when it is received by DES, it may be made available to the public by DES without further notice to CCI.

CIRCUIT CONNECT, INC.

COPY

By: Mark Sites, President
Duly Authorized

11/27/04
Date

DEPARTMENT OF ENVIRONMENTAL SERVICES

COPY

Anthony P. Giunta, P.G., Director
Waste Management Division

12/02/04
Date

COPY

Michael P. Nolin, Commissioner

12 07 04
Date

cc: DB/RCRA/ORDER/ARCHIVE
Gretchen R. Hamel, Legal Unit Administrator
Public Information Coordinator, DES
Jennifer Patterson, NHDOJ-OAG
City Clerk, Nashua, NH
Will Walen, Director of Quality, Circuit Connect, Inc.
Mark Clutz, CEO, Circuit Connect, Inc.